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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/029,482

12/20/2001

Stephanie Wai Man Shiu

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7590

06/24/2004

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EXAMINER

TSIDULKO, MARK

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 06/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/029,482

Applicant(s)

SHIU, STEPHANIE WAI MAN

Examiner

Mark Tsidulko

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,7-9,11,12,14-26 and 30-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,7-9,11,12,14-26 and 30-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The submission of amendment filed on 6/4/04 is acknowledged. At this point claims 1, 8, 11, 16, 22, 24, 26 and 30 have been amended, claims 4-6, 10, 13, 27 -29 have been canceled, new claim 34 has been added and the remaining claims left unchanged. Thus, claims 1-3, 7-9, 11, 12, 14-26, 30-34 are at issue in the instant application.

Since this application is eligible for the transitional procedure of 37 CFR 1.129(a), and the fee set forth in 37 CFR 1.17(r) has been timely paid, the finality of the previous Office action is hereby withdrawn pursuant to 37 CFR 1.129(a).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11, 12, 17, 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Lebens et al. (US 6,305,818).

Referring to Claims 11, 25 Lebens et al. disclose (Fig.1) a battery-powered hand-sized flashlight having a plurality of light sources [150], switch [140], a housing [110] configured so as to direct the light into a beam and an integrated circuit, which is a multi-state electronic device based on signal from the switch and configured to control the plurality of light sources are

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illuminated (Abstract, col.8, lines 45-55). The multi-state electronic device changes state when a signal is input from the switch (col.7, lines 54-57).

Different states causes a different combination of the light sources to illuminate using a circuit that selectively applies power to the LED units (col.2, lines 57-59).

Referring to Claim 12 Lebens et al. disclose a flashlight having integrated circuit which includes a timer used to provide different states of illumination (col.11, lines 1-17).

Referring to Claim 17 Lebens et al. disclose (Fig.1) a flashlight body configured to direct light from the plural light sources in a single direction.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1, 7, 18-21, 22, 24, 26, 30, 31, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebens et al. (US 6,305,818).

Referring to Claims 1, 21 Lebens et al. disclose (Fig.1) a battery-powered hand-sized flashlight having a plurality of light sources [150], switch [140], a housing [110] configured so as to direct the light into a beam and an integrated circuit, which is a multi-state electronic device having three states that can be changed by a signal from the switch and configured to control which of the plurality of light sources are illuminated (Abstract, col.8, lines 45-55).

The flashlight having a multiple position switch (col.7, lines 54-57) which allows to control various light levels, colors, etc. It is understood that different light levels cause different pattern of the light sources to illuminate and to remain illuminated until a next state transition based on an activation of the switch.

While Lebens et al. disclose a switch [140], but does not show type of the switch, it will of course be readily understood by those skilled in the art, that any desired type of switch well known in the art, including pushbutton switch may be used for the device.

Referring to Claim 7 Lebens et al. disclose a flashlight having integrated circuit which includes a timer used to provide different states of illumination (col.11, lines 1-17).

Referring to Claim 18 Lebens et al. disclose a switch [140], but does not show type of the switch. It is understood that any desired type of switch well known in the art, including pushbutton switch may be used for the device.

Referring to Claims 19, 20 Lebens et al. disclose a flashlight having a multiple position switch (col.7, lines 54-57). It is understood that repeating of switch activation causes the multi-state device to cycle through the plural states since each state of the switch causes corresponding state of cycle.

Referring to Claims 22, 26 Lebens et al. disclose a flashlight wherein each switch activation causes at least one change in the light sources, if any, that are illuminated, and the new set of illuminated light sources, if any, remain illuminated until a next activation of the switch (col.7, lines 19-23, 54-57).

Referring to Claim 24 Lebens et al. disclose a flashlight having a multiple position switch (col.7, lines 54-57). It is understood that repeating of switch activation causes the multi-state

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device to cycle through the plural states since each state of the switch causes corresponding state of cycle.

Referring to Claim 30 Lebens et al. disclose a flashlight having a multiple position switch (col.7, lines 54-57). Since any type of switch has a fixed number of states, it will of course be understood that with each transition caused by an identical activation of the switch, and with the multi-state electronic device returning to an initial state after transitioning through the fixed number of states.

Referring to Claim 31 Lebens et al. disclose a flashlight having a multiple position switch (col.7, lines 54-57) which allows to control various light levels, colors, etc. It is understood that different light levels cause different pattern of the light sources to illuminate and to remain illuminated until a next state transition based on an activation of the switch.

Referring to Claim 34 Lebens et al. disclose a flashlight having a multiple position switch (col.7, lines 54-57). Since any type of switch has a fixed number of states, it will of course be understood that with each transition caused by an identical activation of the switch, and with the multi-state electronic device returning to an initial state after transitioning through the fixed number of states.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the pushbutton switch for the flashlight of Lebens et al. in order to operate the device.

Claims 2, 3, 14, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebens et al. (US 6,305,818) in view of Sharrah et al. (US 6,012,824).

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Referring to Claims 2, 3 Lebens et al. disclose the instant claimed invention except for light sources with different levels of power consumption and an incandescent bulb.

Sharrah et al. disclose (Fig.11) a flashlight having a LED [285] and incandescent bulb [286]. It is well known in the art of illumination that a LED and incandescent bulb have different levels of power consumption.

Referring to Claims 14, 15 Lebens et al. disclose the instant claimed invention except for light sources with different brightness.

Sharrah et al. disclose (Fig.11) a flashlight having a LED [285] and incandescent bulb [286]. It is well known in the art of illumination that a LED and incandescent bulb have different brightness.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the at least one incandescent bulb, as taught by Sharrah et al. for the device of Lebens et al. in order to obtain different levels of power consumption.

Claims 8, 9, 16, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebens et al. (US 6,305,818) in view of Macek (US 6,394,622).

Referring to Claims 8, 16 Lebens et al. disclose the instant claimed invention except for that at least one light source is covered by a lens that does not cover at least one other of the light sources.

Macek discloses (Figs.1, 5, 7) that each light source is covered by own lens.

Referring to Claims 9 Lebens et al. disclose the instant claimed invention except for a lens covers all of LEDs only.

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Referring to Claim 23 Lebens et al. disclose the instant claimed invention except for that the each activation of the switch changes a characteristic of the light beam.

Macek discloses that the each activation of the switch changes a characteristic of the light beam, since a LED and incandescent bulb have different brightness.

Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebens et al. (US 6,305,818) in view of Adell (US 5,347,261).

Lebens et al. disclose the instant claimed invention except for spring-loaded switch in order to obtain a single state change in the multi-state device.

Adell discloses a spring-loaded switch in order to obtain a single state change in the multi-state device (col.4, lines 30-39).

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the spring-loaded switch, as taught by Adell for the device of Lebens et al. in order to obtain a single state change in the multi-state device.

Response to Arguments

Applicant's arguments filed 6/4/2004 have been fully considered but they are not persuasive.

Applicant argues that reference of claim 1 does not include an integrated circuit that cycles through a fixed number of states, one state each time a pushbutton switch is depressed, beginning at an initial state I which all of the light sources are off and then, after cycling through the fixed number of states, returning to the initial state.

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In response, Lebens et al. disclose (Fig. 1) flashlight having an integrated circuit, which is a multi-state electronic device having three states that can be changed by a signal from the switch and configured to control which of the plurality of light sources are illuminated (Abstract, col.8, lines 45-55).

The flashlight having a multiple position switch (col.7, lines 54-57) which allows to control various light levels, colors, etc. It is understood that different light levels cause different pattern of the light sources to illuminate and to remain illuminated until a next state transition based on an activation of the switch.

Different states causes a different combination of the light sources to illuminate using a circuit that selectively applies power to the LED units (col.2, lines 57-59).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

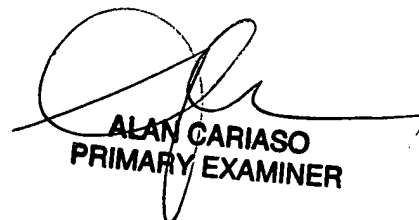
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Tsidulko whose telephone number is (571)272-2384. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M.T.
June 16, 2004



ALAN CARIASO
PRIMARY EXAMINER